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CLEARINGHOUSE RULE 95-028

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

a. The introductory clause of Clearinghouse Rule 95-28 is improperly drafted. It is suggested that this clause be redrafted using the example in s. 1.02 (1), Manual, as a model. For example, the portion relating to repealing rule provisions should state: “...to repeal NR 45.10 (2) (e), (3) (b) and (4) (a) 5., (b) 4. and (c) 4., 45.12 (1) (c) 11. to 15. and (2) (b) and 45.13 (14) and (17) (p)....”

b. The department should consider using portions of the analysis in the report to the Legislative Council Rules Clearinghouse in place of the analysis in the rule itself. The analysis in the report to the Clearinghouse is more descriptive.

c. SECTION 2 of Clearinghouse Rule 95-28 renumbers s. NR 45.03 (9) to be s. NR 45.03 (28). However, as renumbered, s. NR 45.03 (28) would create a definition not in alphabetical order. It is suggested that SECTION 2 of Clearinghouse Rule 95-28 be revised so that the definitions will be in alphabetical order.

d. Many of the SECTIONS of Clearinghouse Rule 95-28 beginning with SECTION 9 are missing periods. It is suggested that periods be placed after all SECTION numbers.

e. SECTION 34 of Clearinghouse Rule 95-28 repeals and recreates s. NR 45.12 (2) (intro.), relating to camping fees. However, since very few changes are made to this subsection, the department should consider amending the subsection which would better enable the reader to determine what is being amended. Conversely, in SECTION 39 of Clearinghouse Rule 95-28, the revisions to s. NR 45.12 (2) (c) are so extensive that the department should consider repealing and recreating the paragraph.

4. Adequacy of References to Related Statutes, Rules and Forms

Section 27.01 (10) (f), Stats., should be listed as statutory authority for Clearinghouse Rule 95-28. This section is statutory authority for s. NR 45.12 (2) (b) 2., which establishes rates for prime campsites.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. Section NR 45.04 (3) (b) provides that persons charged with “violent, assaultive or disorderly behavior” may be expelled from lands under the management, supervision and control of the department until after the case is adjudicated in court. Because some court cases may take years to adjudicate, the period of eviction provided under this provision could be quite long, especially as compared with the period of eviction for other infractions. The department should consider revising this provision of s. NR 45.04 (3) (b) to make more clear what types of behavior may result in this period of eviction.

b. Section NR 45.04 (3) (n) provides that no person may use any climbing equipment that is “permanent in nature.” What appears to be intended in this paragraph is to prohibit the use of equipment that permanently alters the area where climbing occurs. If so, the paragraph should be redrafted to make this more clear. Also, the second sentence should be added to the first sentence by a phrase such as: “including pitons, bolts and rock drills.” The abbreviation “etc.” is vague and should not be used in a rule.

c. In s. NR 45.04 (3) (o), it is suggested that the phrase “use of” be deleted.

d. SECTION 10 of Clearinghouse Rule 95-28 is confusing. This SECTION provides that no person may operate a motor vehicle on lands owned, leased or under the supervision or control of the department which are subject to state laws prohibiting the operation of a motor vehicle while under the influence of an intoxicant or other drug unless the person has a valid driver’s license. The SECTION also provides that no person may operate a motor vehicle while under the influence of an intoxicant or a controlled substance on lands owned, leased or under the management or control of the department which are not subject to state laws prohibiting the operation of a motor vehicle while under the influence of an intoxicant or other drug. These provisions do not appear to make sense. It is suggested that this SECTION of the rule be redrafted to state more clearly what the department intends.

e. Section NR 45.09 (2) is amended to restrict the use of blinds “(e)xcept as provided in s. 29.27 (1) (a), Stats.” However, this statutory section merely defines the term “blind” and does not provide any exceptions. It is suggested that this provision of Clearinghouse Rule 95-28 be redrafted to state more clearly what is intended by the department.

f. In s. NR 45.10 (4) (c) 5., it is suggested that the word “may” be placed preceding the word “exceed.”

g. In s. NR 45.12 (5), the word “lessee” is misspelled.